

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, NOVEMBER 4, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of November 4, 2009, was called to order by Mayor Hansen at 6:30 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Absent: Council Member Mounce

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Prospective Lease of a Portion of 218 West Pine Street and 211 Oak Street, Lodi, Negotiating Parties of City of Lodi, Oddfellows Hall Association of Lodi and Beckman Capital Corporation, for the Placement of Environmental Cleanup Equipment, Price and Terms are Under Negotiation, Pursuant to Government Code Section 54956.8

C-3 Adjourn to Closed Session

At 6:30 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matter.

The Closed Session adjourned at 6:40 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following action.

In regard to Item C-2 (a), negotiating direction was given.

A. Call to Order / Roll call

The Regular City Council meeting of November 4, 2009, was called to order by Mayor Hansen at 7:00 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Absent: Council Member Mounce

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Pledge of Allegiance

C. Presentations

C-1 Awards - None

C-2 Proclamations

a) National Runaway Prevention Month

Mayor Hansen presented a proclamation to Kathleen Halliday, representing Family and Youth Services of San Joaquin County, proclaiming the month of November 2009 as "National Runaway Prevention Month" in the City of Lodi.

C-3 Presentations

a) Stephen Qualls, Central Division, League of California Cities Representative (CLK)

Stephen Qualls, Central Valley Division representative of the League of California Cities, presented the golf tournament trophy from the League-CitiPac fundraiser to Mayor Hansen and provided an update on the League's recent ballot initiative efforts.

b) Quarterly Update by the Greater Lodi Area Youth Commission (COM)

Josh Gums and Beau Benko, representatives of the Greater Lodi Area Youth Commission, gave an update on the Commission's activities and accomplishments. Further, Mayor Hansen presented Certificates of Recognition to the following Teen of the Month recipients: August - Jenny Zimmerman and Janay Larson; September - Marco Ruiz; and October - Kristyn McQueen.

c) Electric Utility 100th Anniversary (EUD)

Ken Weisel, Interim Electric Utility Director, and Kevin Bell, Committee Chair, gave a presentation regarding the Utility's 100th Anniversary and the community activities planned to commemorate this milestone.

D. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Johnson made a motion, second by Mayor Hansen, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

D-1 Receive Register of Claims in the Amount of \$5,365,317.65 (FIN)

Claims were approved in the amount of \$5,365,317.65.

D-2 Approve Minutes (CLK)

The minutes of October 7, 2009 (Regular Meeting) and October 20, 2009 (Shirtsleeve Session) were approved as written.

D-3 Accept the Quarterly Investment Report As Required by Government Code Section 53646 (CM)

Accepted the quarterly investment report as required by Government Code Section 53646.

D-4 Accept Quarterly Report of Purchases Between \$5,000 and \$20,000 (CM)

In response to Council Member Hitchcock, City Manager King and Public Works Director Wally Sandelin stated that, when the World of Wonders museum took over the building, it did some improvements, mold issues were discovered on the southern and northern sides of the building, there was an agreement to split the cost of mitigation, and some of the work is warranty work.

In response to Council Member Hitchcock, Mr. King stated it is his understanding that the basic work of removing trees and shrubbery was completed on the inside of the Grape Bowl facility where the vegetation was overgrown.

Council Member Hitchcock made a motion, second by Mayor Hansen, to accept the quarterly report of purchases between \$5,000 and \$20,000.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

D-5 Adopt Resolution Authorizing the City Manager to Allocate an Additional \$75,000 from the Lodi Public Benefits Program Fund for Use by the Lodi G2 Customer Rebate Program (EUD)

Adopted Resolution No. 2009-151 authorizing the City Manager to allocate an additional \$75,000 from the Lodi Public Benefits Program Fund for use by the Lodi G2 Customer Rebate Program.

D-6 Approve Plans and Specifications and Authorize Advertisement for Bids for Water Main Replacement Program Project No. 3 (PW)

Approved the plans and specifications and authorized advertisement for bids for Water Main Replacement Program Project No. 3.

D-7 Adopt Resolution Authorizing Additional Task Order with West Yost Associates for Fiscal Year 2009/10 to Provide Permit Assistance and Prepare Various Studies Required by the City's Wastewater Discharge Permit (\$392,300) and Appropriating Funds (\$435,000) (PW)

Adopted Resolution No. 2009-152 authorizing additional task order with West Yost Associates for fiscal year 2009/10 to provide permit assistance and prepare various studies required by the City's Wastewater Discharge Permit in the amount of \$392,300 and appropriating funds in the amount of \$435,000.

D-8 Adopt Resolution Awarding Contract for City-Funded Maintenance of Landscape Areas for 2010 to Dominguez Landscape Services, Inc., of Sacramento, for Groups A, B, and C for an Annual Cost of \$174,686 (PW)

Adopted Resolution No. 2009-153 awarding the contract for City-Funded Maintenance of Landscape Areas for 2010 to Dominguez Landscape Services, Inc., of Sacramento, for Groups A, B, and C for an annual cost of \$174,686.

D-9 Adopt Resolution Approving 2010 Street Maintenance Project for Proposition 1B Funding (\$2,000,000) (PW)

Adopted Resolution No. 2009-154 approving 2010 Street Maintenance Project for Proposition 1B funding in the amount of \$2,000,000.

D-10 Adopt Resolution Approving Second Supplemental Agreement to Pixley Park Property Exchange Agreement and Improvement Agreement with G-REM, Inc., to Provide Time Extension (PW)

In response to Council Member Hitchcock, Public Works Director Wally Sandelin stated the drainage basin continues to have overly sufficient capacity to handle growth, as the work may only be 50% completed but the basin is more than 50% excavated.

Council Member Hitchcock made a motion, second by Mayor Pro Tempore Katzakian, to adopt Resolution No. 2009-156 approving the second supplemental agreement to Pixley Park Property Exchange Agreement and Improvement Agreement with G-REM, Inc., to provide time extension.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

D-11 Adopt Resolution Repealing Resolution No. 2009-120 and Approving Vacation of Surplus Portion of Loma Drive Lying Adjacent to Parcel Located at 1310 West Turner Road and Authorizing City Manager to Execute Amended Agreement to Exchange Vacated Right-of-Way for Public Improvements (PW)

Adopted Resolution No. 2009-155 repealing Resolution No. 2009-120 and approving vacation of surplus portion of Loma Drive lying adjacent to parcel located at 1310 West Turner Road and authorizing the City Manager to execute amended agreement to exchange vacated right-of-way for public improvements.

D-12 Accept Donation to the Police Department for the Purchase and Installation of Two Powerheart G3 Automatic Automated External Defibrillators and Two Cabinets (\$3,400) and an In-kind Donation to the Police Department of Two Powerheart G3 Automatic Automated External Defibrillators (\$2,800) (PD)

Accepted donation to the Police Department for the purchase and installation of two Powerheart G3 automatic automated external defibrillators and two cabinets in the amount of \$3,400 and an in-kind donation to the Police Department of two Powerheart G3 automatic automated external defibrillators in the amount of \$2,800.

D-13 Consider Loaning of Gram-O-Phone to World of Wonders Science Museum for Display (CM)

Approved loan of Gram-O-Phone to World of Wonders Science Museum for display.

E. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in

that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

None.

F. Comments by the City Council Members on Non-Agenda Items

Mayor Hansen reported on his attendance at commission meetings where specific topics of discussion included the Northern California Power Agency (NCPA) annual strategic workshop to be held in January, the passage of the Project Labor Agreement, progress with the NCPA budget, progress on the new Lodi Energy Center Project, and the approval of a Union Pacific Railroad project with cities commenting on the difficulties of dealing with the company.

In response to Council Member Hitchcock, City Manager King and Public Works Director Wally Sandelin provided an overview of the construction progress at DeBenedetti Park and the efforts associated with keeping the ground wet to keep the dust down on windy days.

G. Comments by the City Manager on Non-Agenda Items

None.

H. Public Hearings

H-1 Conduct a Public Hearing to Consider the Adoption of a Resolution to Update the Planning Division's Hourly Rate and Setting Various Fire Inspection Fees (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the adoption of a resolution to update the Planning Division's hourly rate and setting various Fire Inspection fees.

City Manager King briefly introduced the subject matter of the Planning Division's hourly rate and fire inspection fees.

Interim Community Development Director Rad Bartlam provided a PowerPoint presentation regarding the update of the Planning Division's hourly rate and fire inspection fees. Specific topics of discussion included direct hourly rate, internal and external overhead costs, 15% reserve amount, and proposed costs for the fee schedule.

In response to Council Member Hitchcock, Mr. Bartlam stated he is not sure how the current rate was calculated but it is not a fully burdened cost that includes internal and external overhead costs and a reserve number.

In response to Council Member Johnson, Mr. Bartlam stated the Planning Commission cost is attributed 100% to the Planning Division and 40% of the cost for the Administrative Assistant is attributed to the Planning Division.

In response to Council Member Johnson, Mr. Bartlam stated only the inspection related fees are being proposed for change. Mr. Bartlam stated generally with fire sprinkler systems it takes more time to complete the inspection with larger buildings and systems and the numbers are based on a conservative estimate.

In response to Council Member Hitchcock, Mr. Bartlam stated cities handle their inspections differently through their fire departments, fire districts, and community development departments. Mr. Bartlam stated staff went through a time and motion study to accurately reflect the actual cost associated with providing the service.

In response to Council Member Hitchcock, Mr. King stated the Community Development Department is currently receiving a General Fund allocation and it is important to develop a reserve amount.

Mayor Hansen opened the public hearing to receive public comment.

John Beckman, representing the Building Industry Association, spoke in opposition to any fee increases at this time due to the current state of the economy, supported a general reserve policy, and suggested a deferral fee program for impact fees.

Mayor Hansen closed the public hearing after receiving no further public comment.

In response to Council Member Johnson, Mr. Bartlam stated he is not philosophically opposed to collecting impact fees at a later time because the actual impact does not occur until occupancy.

In response to Mayor Hansen, Mr. Bartlam stated the department is currently operating at a \$900,000 deficit that began in the good times and got worse over the bad times. Mr. Bartlam stated the proposed fee changes would keep the department's head above water.

Council provided staff with general direction to bring the subject matter of the deferring impact fees back to Council for consideration at a future regularly scheduled meeting.

Mayor Hansen made a motion, second by Council Member Hitchcock, to adopt Resolution No. 2009-157 updating the Planning Division's hourly rate and setting various Fire Inspection fees.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

I. Communications

I-1 Claims Filed Against the City of Lodi - None

I-2 Appointments - None

I-3 Miscellaneous - None

J. Regular Calendar

J-1 Receive Report on Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility (CD)

City Manager King briefly introduced the subject matter.

Interim Community Development Director Rad Bartlam provided a brief presentation regarding the proposed I-5 widening project. Specific topics of discussion included CalTrans as the lead agency on the project, a review of the aerial maps, the proposed Gateway interchange, draft Environmental Impact Report (EIR) requirement, growth inducement, lack of adequate mitigation for loss of prime farmland, the \$600 million estimated cost of the project, and authority to formally respond to the draft EIR.

In response to Mayor Hansen, Mr. Bartlam stated that, from a pure California Environmental Quality Act (CEQA) review, the document lacks the necessary mitigation, which could be instituted in a variety of ways by the city of Stockton, CalTrans, or San Joaquin Council of Governments.

In response to Mayor Hansen, Mr. Schwabauer stated the standing issue will be met because anyone affected can bring up the environmental effects whether they live within the City limits or not.

In response to Council Member Johnson, Mr. Bartlam stated he is not aware of the specific dimensions of the retail areas but the sizes are consistent with what is currently present at the Eight Mile shopping center.

In response to Council Member Johnson, Mr. Bartlam stated the self-storage shown is the city of Stockton's definition of the buffer.

In response to Council Member Hitchcock, Mr. Schwabauer stated CalTrans is uniquely involved in the interchange project. Mr. Bartlam stated there is a lack of funds right now to complete the project, there may be a variety of funding sources including impact fees, and CalTrans is the lead agency because CEQA requires it and because CalTrans has ultimate approval.

In response to Council Member Hitchcock, Mr. Bartlam stated most of these improvements are already outlined in the Stockton General Plan and already approved growth cannot take place without the interchange improvements, which goes to the growth inducement argument.

In response to Council Member Hitchcock, Mr. King stated at this point the City can respond by saying the EIR is inadequate and let CalTrans evaluate the response as necessary.

In response to Council Member Johnson, Mr. Bartlam stated the Auto Drive interchange is designed to alleviate congestion between Eight Mile Road and March Lane.

Council provided general direction to staff to respond to the environmental documentation.

J-2 Introduce State Video Franchise Ordinance Establishing the Obligations of Cable Operators Providing Service in the City of Lodi Under a State Franchise Agreement (CM)

Communications Specialist Jeff Hood provided a PowerPoint presentation regarding the cable television ordinance. Specific topics of discussion included the Digital Infrastructure and Video Competition Act (DIVCA) ordinance, Public, Education, and Government (PEG) fee, need for ordinance, effects of ordinance adoption, key elements of the ordinance, PEG fee request, and solicited input from AT&T and Comcast.

In response to Council Member Johnson, Mr. King stated there is no harm in having the ability to ask for financials, although cable companies sometimes find it difficult to provide accurate information because they provide service on a regional basis and not a city boundary basis.

In response to Mayor Hansen, Mr. Schwabauer stated he will follow-up on the status of trench

ordinances and bring the information back to Council.

Council Member Hitchcock made a motion, second by Council Member Johnson, to introduce Ordinance No. 1826 establishing the obligations of cable operators providing service in the City of Lodi under a State franchise agreement.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

J-3 Report on Possible Transit Fare Increases and Route Modifications and Consider Setting Public Hearing for a Date Determined by City Council (PW)

City Manager King briefly introduced the subject matter of possible transit fare increases and route modifications.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding possible fare increases and route modifications. Specific topics of discussion included the issue of a deficit, extended service options, Dial-A-Ride/VineLine fare increase, fixed route fare increase, comparisons of transit fares, and possible action to extend service and conduct public hearing for fare increase.

In response to Council Member Johnson, Mr. Sandelin stated there are only 1,400 passengers that ride outside the City limits and therefore it would only generate that amount of revenue.

In response to Mayor Hansen, Mr. Sandelin stated at the increased level the fares would fall in the middle of rate comparisons to other service providers.

In response to Mayor Hansen, Mr. Sandelin stated the ridership is expected to drop some in light of fare increases.

In response to Council Member Johnson, Mr. Sandelin stated ridership did not come back up after the last fare increase although revenues were higher.

Robin Rushing spoke in opposition to any fare increase to accommodate Sunday service.

An unknown resident spoke in opposition to making any changes to the existing Dial-A-Ride service. An unknown resident with the first name Joyce spoke in favor of paying a higher fare to accommodate additional service.

An unknown resident spoke in favor of paying a higher fare for a modified schedule with the idea that the old schedule would be brought back when the economy gets better.

Council Member Hitchcock made a motion, second by Council Member Johnson, to set public hearing for December 16, 2009, to consider possible transit fare increases and route modifications.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

J-4 Designation of Two Council Members to Participate in the Selection Process for a New Electric Utility Director (CM)

In response to Council Member Hitchcock, Mr. King stated the interviews are still several months away although there may be some tasks in the interim.

Mayor Hansen made a motion, second by Council Member Hitchcock, to designate Mayor Hansen and Council Member Johnson to participate in the selection process for a new Electric Utility Director.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

K. Ordinances

K-1 Adopt Ordinance No. 1825 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 15.68, 'San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees,' by Repealing and Reenacting Section 15.68.020(B), "Annual Adjustment" (CLK)

Council Member Hitchcock made a motion, second by Mayor Pro Tempore Katzakian, (following reading of the title) to waive reading of the ordinance in full and adopt and order to print Ordinance No. 1825 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 15.68, 'San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees,' by Repealing and Reenacting Section 15.68.020(B), 'Annual Adjustment,'" which was introduced at a regular meeting of the Lodi City Council held October 21, 2009.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: None

Absent: Council Member Mounce

L. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:48 p.m., in memory of Lucinda "Starr" Nevis and Kyle Coumas, who passed away recently.

ATTEST:

Randi Johl
City Clerk